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Section II: REMARKS

It is respectfully requested that the changes as noted above in Section I be made to the present application.

In the above-referenced Office Action, which was mailed on 10/20/2004, claims 25-29 were rejected under 35 USC 103(a) as being unpatentable over the single Agnew et al reference (U.S. Patent Application Publication Number US 2003/0187573 A1, hereinafter referred to as "Agnew"). Those rejections are respectfully traversed. However, in order to further the prosecution of the present application, and without waiving any of applicant's rights to argue the allowability of the originally presented claims in a subsequent appeal or other proceeding in the event that the Examiner does not concur that the present amendment places the application in condition for allowance, applicant has herein amended the claims for clarification purposes to place them in better condition for allowance or appeal.

The present invention provides a method for recalculating vehicle travel routes based upon changed travel conditions. More specifically, as noted on page 9 of the specification, current traffic flow information is received for travel segments of a selected travel route between an origin and a destination. Average traffic flow rates are also determined for the segments for various periods of time. When a recalculation of a selected travel route is to be accomplished for any reason (including but not limited to changed traffic conditions or straying off the selected travel route), the received current traffic flow rates for the travel segments as well as the average traffic flow rates for differing periods of time for the travel segments are used in order to provide the best new travel route based upon any traffic

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conditions that may have changed. Current traffic flow rates are used in determining new travel segments close to the current vehicle position and average traffic flow rates are used in the determination of new travel segments close to the destination. Interpolated traffic flow rates are used for intermediate segments. This methodology provides a new travel route based upon current and recent traffic conditions. Average rates are used for segments farther away from the current vehicle position since it is likely that current conditions will not still be present when the vehicle arrives at the distant segments.

Agnew discloses a navigation guidance system which maintains time-related models to enable a user to arrive at a chosen destination by a given time. The Agnew system continuously monitors each calculated route and advises the users of alternate routes for updating departure or arrival times as appropriate. However, Agnew does not disclose, teach or even suggest calculating average traffic flow rates for each segment of a selected travel route and using a combination of real-time traffic flow rates and average traffic flow rates to recalculate a new travel route based upon both current real-time and average traffic flow rates as is disclosed and claimed by the applicant.

In view of the above noted distinctions, independent claim 25 has herein been amended to more clearly recite the above-noted distinctions which are neither shown nor suggested by Agnew. As herein amended, claim 25 is believed to be allowable under 35 USC 103(a) over the Agnew reference. Further, dependent claims 26-29 have herein been amended to ultimately depend from and include all of the limitations of claim 25 in addition to even further limitations as set forth in the individual claims. Therefore it is believed that claims 26-29 are also allowable under 35 USC 103(a) over Agnew. Further, dependent claims 23 and 24, although

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not previously considered, have also been herein amended to depend from amended claim 25 and are therefore also believed to be allowable under 35 USC 103(a) over Agnew. Claims 4-5, 12-13 and 22 have herein been cancelled in order to expedite the prosecution of the present application and with the belief that the substance of those claims is included in one or more of the remaining claims.

As noted above, it is believed that Agnew does not disclose or even suggest the total combination as is now set forth in the currently amended independent claim 25. Therefore amended claim 25 is submitted to be allowable under 35 USC 103(a) over Agnew. Moreover, since claims 26-29 and 23-24 ultimately depend from claim 25 and include all of the limitations of claim 25 as well as even further limitations as set forth in the individual dependent claims, it is submitted that claims 26-29 and 23-24 are also allowable under 35 USC 103(a) over Agnew.

With specific reference to the Office Action mailed on 10/20/04, it should be noted that applicant traverses all of the stated reasons for obviousness type (35 USC 103) rejections which are based in part on what is stated to be "well known in the art" or "obvious" but for which there is no specific reference cited. Applicant does not agree that the features identified in the Office Action as being "well known" or "obvious" are in fact "well known" without a citation of a dated reference. In that regard, it is noted that, *arguendo*, while some features may today be "well known", without a cited dated reference there is no proof of when such features became "well known" and there is no showing on the record of a disclosure or suggestion of a feature or claim element or combination of claimed elements in a reference published before the filing of the present application.

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The similarity of the various pieces and parts of the prior art references as discussed on pages 2-3 of the Office Action has been noted but it is believed that there is no disclosure, teaching or even suggestion in the cited reference, of the total combination of elements and relationships among those elements as herein presented in the currently amended claims. It is further noted that applicant is not claiming that any of the particular isolated features of the claimed combinations is novel *per se*, but rather only that the entire combination of elements and relationships as expressly set forth in the amended claims is not suggested or rendered obvious by the cited reference.

Thus, it is submitted that claims 23-29, as herein presented, are believed to be in condition for allowance, an early notice of which is hereby requested. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting the allowance of this application, and especially if one or more new references are cited, the Examiner is invited to contact the undersigned at the telephone number indicated below, prior to the issuance of another Office Action, in order to allow the applicant the opportunity to further amend the claims by Supplemental Amendment or Examiner's Amendment, as may be appropriate, to place the claims in condition for allowance. The Examiner's attention to this matter is greatly appreciated.

Respectfully submitted,

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